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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,301	08/16/2005	Stephen Mulcahy	78803.03501	3670

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EXAMINER

ELKINS, GARY E

ART UNIT	PAPER NUMBER
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3782

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/509,301

Applicant(s)

MULCAHY ET AL.

Examiner

Gary E. Elkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2006.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-15 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1,2 and 4-15 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
 5) ☐ Notice of Informal Patent Application
 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1, 2 and 4-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following are each a double inclusion of an element, i.e. each element is being reintroduced into the claims: claim 1, line 7, “an indent”, claim 11, line 3, “one pair of opposing side walls” and claim 12, line 3, “one pair of opposing side walls”.

In claim 5, line 2, “each tab” lacks antecedent basis in the claims.

In claim 5, line 3, “the main body forming panel” is unclear insofar as two main body forming panels were previously set forth in the claims.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 4-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ringer in view of either Weaver or Forbes, Jr. Ringer discloses all structure of the claimed blank and container except a rounded surface on the other opposing side flaps. Each of Weaver and Forbes, Jr. teaches that it is known to make automatically collapsible end closures with rounded surfaces or edges (47, 59; rounded edges of flaps 22, 24, respectively). It would have been

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obvious to make the auto end closures in Ringer with rounded edges as taught by either Weaver or Forbes, Jr. to allow easier sliding engagement/disengagement of the interlock during erection and collapse of the container.

4. Claims 1, 2, 4-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Henry or Ward (WO '987), each in view of Single and either Weaver or Forbes, Jr. Each of Henry and Ward discloses all structure of the claimed blank/support except formation of the blank/support from corrugated board and a rounded surface on the other opposing side flaps. Single teaches that it is known to make a collapsible container from corrugated board. Each of Weaver and Forbes, Jr. teaches that it is known to make automatically collapsible end closures with rounded surfaces or edges. It would have been obvious to make the blank/container in either Henry or Ward using corrugated board as taught by Single to acquire the well known advantages of corrugated board, i.e. strength, insulation, puncture resistance, etc. within a container formed as in Henry or Ward. Corrugated board is notoriously well known in this art. It would further have been obvious to make the auto end closures in either Henry or Ward with rounded edges as taught by either Weaver or Forbes, Jr. to allow easier sliding engagement/disengagement of the interlock during erection and collapse of the container.

5. Claims 10, 12, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward in view of Single and either Weaver or Forbes, Jr. as applied in paragraph 4 above, and further in view of either Rexford or Zimmerman. Modified Ward fails to evidence orientation of the flutes of the corrugated board longitudinally of the blank. Each of Rexford and Zimmerman teaches that it is known to orient the corrugations in a tubular carton blank in the longitudinal direction of the blank. It would have been obvious to orient the corrugations in modified Ward

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in the longitudinal direction of the blank as taught by either Rexford or Zimmerman to allow easier folding of the flaps during production and to provide greater crush resistance laterally at the corners of the container.

6. Claims 10 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry in view of Single and either Weaver or Forbes, Jr. as applied in paragraph 4 above, and further in view of either Rexford or Zimmerman. Modified Henry fails to evidence orientation of the flutes of the corrugated board longitudinally of the blank. Each of Rexford and Zimmerman teaches that it is known to orient the corrugations in a tubular carton blank in the longitudinal direction of the blank. It would have been obvious to orient the corrugations in modified Henry in the longitudinal direction of the blank as taught by either Rexford or Zimmerman to allow easier folding of the flaps during production and to provide greater crush resistance laterally at the corners of the container.

7. Claims 10 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ringer in view of either Weaver or Forbes, Jr. as applied in paragraph 3 above, and further in view of either Rexford or Zimmerman. Modified Ringer fails to evidence orientation of the flutes of the corrugated board longitudinally of the blank. Each of Rexford and Zimmerman teaches that it is known to orient the corrugations in a tubular carton blank in the longitudinal direction of the blank. It would have been obvious to orient the corrugations in modified Ringer in the longitudinal direction of the blank as taught by either Rexford or Zimmerman to allow easier folding of the flaps during production and to provide greater crush resistance laterally at the corners of the container.

Response to Arguments

8. Applicant's arguments filed 03 November 2006 have been fully considered but they are not persuasive.

The remarks assert that the claims define over the patent to Ringer in that Ringer does not disclose two end flaps having a length substantially the same as the length of the middle panel, interlocking indents where one has a rounded surface and the other an angular surface and formation of the carton from corrugated board. In response, the length (longer dimension) of end flaps 20, 25 of the carton in Ringer are clearly the same length as the middle panel 17 and Ringer clearly discloses in col. 3, lines 9-13 that the container can be made from corrugated board. With respect to the limitation that the surfaces or edges of the indents have rounded and angular surfaces, both Weaver and Forbes, Jr. as applied above teach formation of the indents with rounded surfaces as well as angled surfaces as claimed. The remarks note the fact that Ringer also discloses a carton, flexible bag and a lid. In response, nothing within the claim precludes such elements being present, i.e. the claim encompasses a container being formed with a bag and a lid as shown in Ringer.

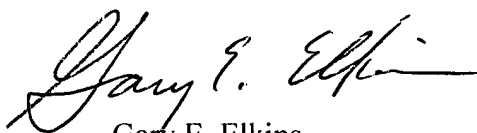
The remarks above are considered equally applicable to the arguments being made with respect to the patents to Ward and Henry.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

A handwritten signature in cursive script, reading "Gary E. Elkins".

Gary E. Elkins
Primary Examiner
Art Unit 3727

gee
21 January 2006